

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ADAM J. ROSH, M.D.,

Plaintiff,

Case No. 2:20-cv-11081-GAD-DRG

v.

Judge Gershwin A. Drain

THE GUARDIAN LIFE INSURANCE
COMPANY OF AMERICA,

Magistrate Judge David R. Grand

Defendant.

/

STIPULATION TO REVISE PRETRIAL SCHEDULE

Plaintiff, ADAM J. ROSH, M.D., and Defendant, THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA, stipulate to the revisions of the pretrial schedule in this matter. The proposed revisions are necessary due to delays occasioned by the response times of certain third-party subpoena respondents and by unanticipated difficulties in scheduling the depositions of both fact and expert witnesses in this high-value disability insurance dispute.

The parties have taken the depositions of Plaintiff, one of four expert witnesses disclosed on March 19, 2020, and one of Plaintiff's treating physicians.¹ The parties have agreed to a day-long facilitation on May 26, 2021. Between today and the facilitation, the parties have scheduled

¹ The parties have at all times acted promptly with respect to discovery in this case. This Court entered the original scheduling order on September 23, 2020. Defendant served its written discovery on Plaintiff the next day, and Plaintiff served its written discovery on Guardian within weeks of the Order. In the interim the parties timely served their initial disclosures, which included several hundred pages of documents. In late October 2020, Guardian served subpoenas on approximately 18 third parties likely to have information related to Plaintiff's occupation and medical condition; *i.e.*, Plaintiff's treating physicians, former employers, and entities he owned. Unfortunately, it took the offices of Plaintiff's treating physicians two to three months to respond to the subpoenas served on them. Because of the delays associated with receipt of the relevant medical records, depositions did not begin until March 4, 2021.

four depositions they believe are necessary to make the facilitation fruitful. If the parties are not able to resolve their dispute at the facilitation, there are six other fact-witness depositions and one other expert witness deposition the parties require to ensure they are prepared for dispositive motions or trial. Also, the parties' rebuttal expert disclosures are due May 5, 2021, and it is not clear whether any of those experts will need to be deposed in the event the case does not settle.

The parties previously stipulated to a revision to the Scheduling Order that set June 4, 2021 as the discovery cut-off date. The parties stipulate to the extension of the discovery cut-off date. Extending that date is necessitated by unanticipated difficulties the parties encountered when scheduling the depositions of both fact and expert witnesses since the entry of the revised Scheduling Order, and the extension is appropriate because it will help the parties conserve resources ahead of the May 26th facilitation. Accordingly, the parties stipulate to the following amendment of the current schedule as follows:

Task/Event	Current Schedule	Amended Schedule
Disclosure of Rebuttal Experts	May 5, 2021	No Change
Deadline: Expert Witness Lists	May 7, 2021	June 4, 2021
Deadline: Lay Witness Lists	May 7, 2021	June 4, 2021
Discovery Closes	June 4, 2021	July 2, 2021
Dispositive Motions due	June 18, 2021	July 16, 2021
Deadline for Facilitation	July 30, 3021	No Change
Motions in Limine due	August 10, 2021	No Change
Final Pretrial Order due	August 10, 2021	No Change
Final Pretrial Conference	September 21, 2021	No Change
Voir Dire, Proposed Jury Instructions, Verdict Forms due	September 21, 2021	No Change
Mark Exhibits to be Exchanged	September 24, 2021	No Change
Trial	September 28, 2021	No Change

Stipulated:

By: /s/ Ilana S. Wilenkin (with permission)
Counsel for Adam J. Rosh, M.D.
Ilana S. Wilenkin
FELDHEIM & WILENKin, P.C.
30300 Northwestern Highway, Suite 108
Farmington Hills, MI 48334-3255
ilana@lawsmf.com

By: /s/ Joseph R. Jeffery
*Counsel for Guardian Life Insurance
Company of America*
Joseph R. Jeffery (IL Bar # 6239226)
Chittenden, Murday & Novotny, LLC
303 W. Madison Street, Suite 2400
Chicago, Illinois 60606
jjeffery@cmn-law.com

IT IS HEREBY ORDERED that the schedule in this matter is amended consistent with the parties' foregoing stipulation.

Dated: May 7, 2021

s/Gershwin A. Drain
Gershwin A. Drain
United States District Court Judge